

REMARKS

This is a full and timely response to the outstanding final Office Action mailed October 31, 2007. Reconsideration and allowance of the application and pending claims are respectfully requested.

Claim Rejections - 35 U.S.C. § 103(a)

A. Rejection of Claims 1-9, 20-22, 24, 25, and 27

Claims 1-9 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Mullen, et al.* ("Mullen," U.S. Pub. No. 2004/0243997) in view of *Matyas, Jr., et al.* ("Matyas," U.S. Pat. No. 7,051,211), either alone or in combination with one or more further references.

As indicated above, independent claims 1 and 20, from which the other claims depend, have been amended through this Response. In view of those amendments, Applicant respectfully submits that the rejections are moot.

Turning to the merits of claims 1 and 20, Applicant notes that none of the applied references disclose or suggest an installer program that compares on the computing device the types of an original and new operating system to determine whether installation of the new operating system is authorized. Furthermore, the references do not disclose or suggest the installer program preventing installation of the new operating system if the types are not the same.

Regarding the Matyas reference, which is alleged to disclose such actions, Matyas describes software code that comprises two parts, an unencrypted and an encrypted part, being loaded on a computer. *Matyas*, column 9, lines 4-41. The

unencrypted part requests from a separate server authorization to install the software (i.e., both parts) on the computer. *Matyas*, column 9, lines 50-53. The server then identifies the instance of the product and verifies that the user is the legitimate customer. *Matyas*, column 10, lines 6-9. If so, the server sends to the computer a secret value that enables installation. *Matyas*, column 10, lines 12-15.

As can be appreciated from the above discussion of the *Matyas* disclosure, *Matyas* does not disclose or suggest authorization to install a new operating system being dependent upon the types of an original and the new operating system. Furthermore, *Matyas* does not disclose or suggest the authorization determination being made by an installer program on the computer on which the new operating system is to be installed.

B. Rejection of Claims 15-19 and 26

Claims 15, 18, and 19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Herrick* in view of *Matyas*, either alone or in combination with one or more further references.

As indicated above, independent claim 15 from which the other claims depend has been amended through this Response. In view of that amendment, Applicant respectfully submits that the rejections are moot.

Turning to the merits of claim 15, Applicant reiterates that *Matyas*, which is relied upon in the Office Action as disclosing comparing on a computer types of operating systems to determine authorization to install a new operating system on the computer, does not in fact provide such a disclosure. Instead, *Matyas* discloses an independent

server verifying that a user is a legitimate customer. Therefore, no evaluation of operating system types is used in an authorization determination in the Matyas system.

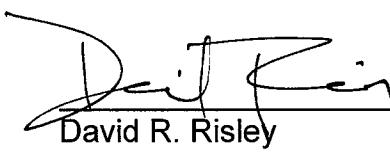
C. Canceled Claims

Claims 8-14, 18, and 23 have been canceled from the application without prejudice, waiver, or disclaimer. Applicant reserves the right to present these canceled claims, or variants thereof, in continuing applications to be filed subsequently.

CONCLUSION

Applicant respectfully submits that Applicant's pending claims are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,



Registration No. 39,345